

related dry short tons of byproduct material.

*NRC* means the United States Nuclear Regulatory Commission or its predecessor agency.

*Offsite disposal* means the disposal, and activities that contribute to the disposal, of byproduct material in a location that is not contiguous to the West Chicago Thorium Mill Site located in West Chicago, Illinois, in accordance with a plan approved by, or other written authorization from, the State of Illinois or NRC provided the activities are consistent with the ultimate removal of byproduct material from the West Chicago Thorium Mill Site.

*Plan for subsequent remedial action* means a plan approved by the Department which includes an estimated total cost and schedule for remedial action, and all applicable requirements of remedial action established by NRC or an Agreement State to be performed after December 31, 2002 at an active uranium or thorium processing site.

*Reclamation plan or site reclamation plan* means a plan, which has been approved by NRC or an Agreement State, for remedial action at an active processing site that establishes the work necessary to comply with applicable requirements of UMTRCA, or where appropriate with requirements established by an Agreement State.

*Remedial action* means decontamination, decommissioning, reclamation, and other remedial action at an active uranium or thorium processing site.

*Secretary* means the Secretary of Energy or her designees.

*Site owner* means a person that presently holds, or held in the past, any interest in land, including but not limited to a fee simple absolute, surface or subsurface ownership of mining claims, easements, and a right of access for the purposes of cleanup, or any other legal or equitable interest.

*Tailings* means the remaining portion of a metal-bearing ore after some or all of the metal, such as uranium, has been extracted.

*The Fund* means the Uranium Enrichment Decontamination and Decommissioning Fund established at the United States Department of Treasury pursu-

ant to section 1801 of the Atomic Energy Act (42 U.S.C. 2297g).

*Title X or “the Act”* means Subtitle A of Title X of the Energy Policy Act of 1992, Public Law 102–486, 106 Stat. 2776 (42 U.S.C. 2296a–1 *et seq.*).

*UMTRCA* means the Uranium Mill Tailings Radiation Control Act of 1978, as amended (42 U.S.C. 7901 *et seq.*).

*United States* means any executive department, commission, or agency, or other establishment in the executive branch of the Federal Government.

*Written Authorization* means a written statement from either the NRC or an Agreement State that a licensee has performed in the past, or is authorized to perform in the future, a remedial action that is necessary to comply with the requirements of UMTRCA or, where appropriate, the requirements of an Agreement State.

## Subpart B—Reimbursement Criteria

### § 765.10 Eligibility for reimbursement.

(a) Any licensee of an active uranium or thorium processing site that has incurred costs of remedial action for the site that are attributable to byproduct material generated as an incident of sales to the United States shall be eligible for reimbursement of these costs, subject to the procedures and limitations specified in this part.

(b) Prior to reimbursement of costs of remedial action incurred by a licensee, the Department shall make a determination regarding the total quantity of dry short tons of byproduct material, and the quantity of Federal-related dry short tons of byproduct material present on October 24, 1992 at the licensee’s active processing site. A claim for reimbursement from a site for which a determination is made will be evaluated individually. If a licensee does not concur with the Department’s determination regarding the quantity of dry short tons of byproduct material present at the site, the licensee may appeal the Department’s determination in accordance with § 765.22 of this part. The Department’s determination shall be used to determine that portion of an approved claim for reimbursement submitted by the licensee which shall be

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reimbursed, unless or until the determination is overturned on appeal. If the outcome of an appeal requires a change in the Department's initial determination, the Department will adjust any payment previously made to the licensee to reflect the change.

### § 765.11 Reimbursable costs.

(a) Costs for which a licensee may be reimbursed must be for remedial action that a licensee demonstrates is attributable to byproduct material generated as an incident of sales to the United States, as determined by the Department. These costs are equal to the total costs of remedial action at a site multiplied by the Federal reimbursement ratio established for the site. These costs must be incurred in the performance of activities, prior to or after enactment of UMTRCA, and required by a plan, portion thereof, or other written authorization, approved by NRC or by an Agreement State. Costs of remedial action shall be reimbursable only if approved by the Department in accordance with the provisions of this part.

(b) In addition, costs of remedial action incurred by a licensee after December 31, 2002 must be in accordance with a plan for subsequent remedial action approved by the Department as specified in § 765.30.

(c) Total reimbursement of costs of remedial action incurred at an active processing site that are otherwise reimbursable pursuant to the provisions of this part shall be limited as follows:

(1) Reimbursement of costs of remedial action to active uranium processing site licensees shall not exceed \$5.50, as adjusted for inflation, multiplied by the number of Federal-related dry short tons of byproduct material.

(2) Aggregate reimbursement of costs of remedial action incurred at all active uranium processing sites shall not exceed \$270 million. This aggregate amount shall be adjusted for inflation pursuant to § 765.12; and

(3) Reimbursement of costs of remedial action at the active thorium processing site shall be limited to costs incurred for offsite disposal and shall not exceed \$40 million. This amount shall be adjusted for inflation pursuant to § 765.12.

(d) Notwithstanding the Title X requirement that byproduct material must be located at an active processing site on October 24, 1992, byproduct material moved from the Edgemont Mill in Edgemont, South Dakota, to a disposal site as a result of remedial action, shall be eligible for reimbursement in accordance with all applicable requirements of this part.

### § 765.12 Inflation index adjustment procedures.

(a) The amounts of \$5.50 (as specified in § 765.2(e) of this rule) \$270 million (as specified in § 765.2(f) of this rule), \$40 million (as specified in § 765.2(g) of this rule) and \$310 million (as specified in § 765.2(i) of this rule) shall be adjusted for inflation as provided by this section.

(b) To make adjustments for inflation to the amounts specified in paragraph (a) of this section, the Department shall apply the CPI-U to these amounts annually, beginning in 1994, using the CPI-U as published by the Bureau of Labor Statistics within the Department of Commerce for the preceding calendar year.

(c) The Department shall adjust annually, using the CPI-U as defined in this part, amounts paid to an active uranium processing site licensee for purposes of comparison with the \$5.50 per dry short ton limit on reimbursement as adjusted for inflation.

## Subpart C—Procedures for Submitting and Processing Reimbursement Claims

### § 765.20 Procedures for submitting reimbursement claims.

(a) All costs of remedial action for which reimbursement is claimed must be supported by reasonable documentation as specified in this subpart. The Department reserves the right to deny any claim for reimbursement, in whole or in part, that is not submitted in accordance with the requirements of this subpart.

(b) The licensee shall provide a copy of the approved site reclamation plan or other written authorization from NRC or an Agreement State upon which claims for reimbursement are